

Appendix - B

Indemnity - Standard of Care

Contractor

~~Contractor~~~~Operator~~ acknowledges responsibility for liability arising out of the performance of this Contract and shall defend, indemnify, and hold harmless City and its officers, agents, volunteers, and employees against any and all liability, settlements, loss, damage, costs, and expenses arising from or in connection with any action, suit, demand, or claim asserted by a third party to the extent resulting or allegedly resulting from, attributable in whole or in part to, or in any way connected with Contractor's and Contractor's officers', agents', volunteers', and employees' negligent acts, omissions, activities, or performance of services in the course of performing this Contract. Contractor's activities are deemed to include those of Contractor's subcontractors. Notwithstanding anything contained herein to the contrary, Contractor shall not have any obligation hereunder for any portion of any liability, settlements, loss, damage, costs, and/or expenses to the extent caused by or arising from the City's and/or its officers', agents', volunteers' or employees' negligence, recklessness or willful misconduct.

Additionally, the City shall indemnify, defend and hold Contractor and its agents and employees harmless of and from all manner of liability, settlements, loss, damage, costs, and expenses (each a "Loss" and collectively, "Losses"), which Contractor may hereafter incur, become responsible for, or pay out as a result of (i) the death or bodily injury to any person or destruction or damage to any property to the extent that such Loss was due to any negligent, reckless or willful act or omission by the City or any of its officers, agents, volunteers, or employees, or (ii) the City's recreation and aquatic center programming (collectively, the "Program") (excluding those Losses for which Contractor is responsible as described above), or (iii) Client's breach of the terms of this Contract and/or any related scope of work or statement of work. Notwithstanding anything contained herein to the contrary, the City shall not have any obligation hereunder for any portion of any Loss to the extent caused by or arising from the Contractor's and/or its agents' or employees' negligence, recklessness or willful misconduct.

This section will survive the termination or revocation of this Contract, regardless of cause.

Insurance

Contractor shall obtain at its expense, and maintain for the term of this ~~contract~~Contract, occurrence form commercial general liability and commercial automobile liability insurance, including coverage for all owned, hired, and non-owned automobiles, for the protection of Contractor, the City, its Councilors, officers, agents, volunteers, and employees. Such coverage shall be primary and non-contributory to the extent that Contractor's negligence is the cause of the claim and (ii) said claim is covered by the insurance that Contractor is required to carry under this Contract. Coverage shall include personal injury, bodily injury, including death, and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Contractor's operations, in an amount not less than \$2,000,000 combined single limit per occurrence and \$2,000,000 aggregate. Such insurance shall ~~include~~~~name~~ the City as an additional insured through the use of a blanket endorsement. Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract, who are subject employers under the Oregon Workers' Compensation Law, shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide workers' compensation coverage for their workers that complies with ORS 656.126. Employers' Liability Insurance with coverage limits of not less

than \$1,000,000 each accident shall be included. All policies will provide for not less than thirty (30) calendar days' written notice to the City before they may be canceled. Prior to commencing work under this Contract, and thereafter upon request, Contractor shall furnish the City certificates of insurance and necessary endorsements evidencing the effective dates, amounts, and types of insurance required by this Contract.